

Minneapolis City Planning Department Report Zoning Code Text Amendments

Date: August 19, 2002; September 23, 2002; October 21, 2002

Initiator Of Amendment: Council Members Gary Schiff and Lisa Goodman

Date of Introduction at City Council: April 19, 2002

Planning Staff: Tom Leighton
ph: 612-673-3853
fax: 612-673-2526
e-mail: thomas.leighton@ci.minneapolis.mn.us

Intent Of The Ordinance: 1) to define the term “affordable housing, 2) to authorize a variance of lot area or lot width up to 30%, 3) to make a density bonus available to affordable housing projects and, 4) (continued indefinitely, 9/19/02) to reduce the minimum lot area to 5000 square feet for duplexes in the R2B zoning district

Affected Sections of the Zoning Code:

- Title 20, Chapter 520, Introductory Provisions, related to definitions.
- Title 20, Chapter 525, Administration and Enforcement, related to authorized variances.
- Title 20, Chapter 546, Residence Districts, Chapter 547, Office Residence Districts, Chapter 548, Commercial Districts, Chapter 549, Downtown Districts, and Chapter 551, Overlay Districts, related to density bonuses.
- Title 20, Chapter 546, Residence Districts, related to lot dimensions and building bulk requirements (continued indefinitely, 9/19/02).

Background:

In January, 2002, the City Council took an action directing Planning Department staff to review the housing-related policies of The Minneapolis Plan (TMP) and provisions of its zoning code. This direction was made more explicit by City Council introduction of subject matter for zoning code text amendments on April 19, 2002, and by the Zoning and Planning Committee action on April 23, 2002, directing staff to “update Comprehensive Plan policy”. The expressed intent is to modify both the policy and regulatory context for residential development in order to foster the growth of the City’s housing stock—and of affordable housing in particular. The draft zoning code amendments, attached, represent the first of what is expected to be two sets of proposed changes to the zoning code that will be advanced for City Council consideration.

The City Planning Commission opened the hearing on the text amendments at its August 19, 2002, meeting. With regard to a) the definition of “affordable housing”, b) the density bonuses for

Minneapolis City Planning Department Report
Text Amendment: Housing, Affordable Housing—Phase I Amendments

affordable housing, and c) modification of lot area and width provisions, the City Planning Commission continued the public hearing to September 23. With regard to reducing the minimum lot area for duplexes in the R2B Districts, the City Planning Commission continued the application indefinitely.

A full staff report and recommendation were available at the September 23 CPC meeting. Additional public testimony was taken. The Planning Commission took an action to continue all of these issues to October 21.

Two letters have been received on the proposed changes. The Shelter Advisory Board documented a formal action of their organization that supports the changes to the comprehensive plan. The Prospect Park East River Road Improvement Association expressed concern about the rapid pace of the process for modifying the comprehensive plan. Planning staff attended a meeting to discuss the proposal in the Southeast Como neighborhood. Residents from the Marcy Holmes and Prospect Park neighborhoods were invited as well.

Since the September 23 meeting the proposed comprehensive plan changes and zoning code changes were re-noticed to all official neighborhood organizations. Information related to these changes has been posted on the Planning Department's web page under a Housing Policy heading.

The three changes still under consideration fall under two headings. Density bonus provisions for affordable housing in the residential (546.130), office residential (547.130), commercial (548.130), and downtown (549.110) chapters, and the Industrial Living Overlay District (551.380) section, are based on the proposed definition of affordable housing (520.160). These proposed changes are all considered under the “Density Bonus” heading below.

The proposed 30% variance of lot area and lot width (525.520) is considered under the “Lot Area/Width Variances” heading below.

The proposed ordinance language is attached. It has been slightly refined since the September 23 meeting, to correct an error and make it read more clearly. But there has been no modification to the substance of the proposal.

Density Bonus

The proposed density bonus would allow a 20% reduction in minimum lot area per dwelling unit where it can be shown that 20% or more of the units in the proposed development will meet the proposed definition of affordable housing—that is, that they will be affordable to families earning 50% or less of the Metropolitan Median Income (MMI). This has the effect of allowing 20% more dwelling units on a parcel of a given area. The density bonus also confers a 20% increase in maximum floor area ratio (FAR).

The proposed definition of affordable housing corresponds closely to one of the minimum set-aside tests for development that qualifies for Minnesota Housing Finance Agency tax credits. (See attached). It also relates well to the requirement in the City Council approved Affordable Housing resolutions (attached) that 20% of units in city/MCDA assisted developments must be affordable to families earning 50% or less of MMI. Thus, developments subject to this requirement are also given a density bonus which may make it easier to set aside the affordable units. Moreover, in

Minneapolis City Planning Department Report
Text Amendment: Housing, Affordable Housing—Phase I Amendments

some parts of the City the availability of the density bonus may decrease the amount of city/MCDA subsidy required.

There are a number of other bonuses available for residential development. They are detailed below.

Lot Area/Width Variances

The minimum area and width of property under various circumstances is specified in the zoning code. Minimum area and width differs in different zoning districts, and for different uses. A variance of up to 20% of lot area and width is currently available in the zoning code. The proposal would allow variances of lot area and width of up to 30%. This expanded variance would be available for all land uses that have minimum lot areas or lot widths in the zoning code.

As is currently the case, variances are not automatic. Granting a variance requires documentation of hardship on the part of the applicant, and demonstrating that granting the variance would not adversely impact the surrounding area.

Three scenarios can be expected to recur. First, a variance may be requested to construct a single family (infill) home on a substandard lot. Note that, under section 531.100 of the current code, a single family home can already be built on any lot of record as long as it can meet the yard requirements of the zoning district. The proposed modification creates greater opportunity to develop a single family home where it would be difficult to meet these yard requirements. The attached analysis shows that of 87 city neighborhoods, 73 have parcels in the R1, R1A or R2B zoning districts that are between 20% and 30% deficient in lot area or lot width for construction of a single family home. In these neighborhoods about 8% of parcels are currently deficient in lot width, but are within 20% of the required minimum width so would be eligible to apply for a variance. The proposed modification would make an additional 1% of parcels eligible to apply for a lot width variance. The corresponding numbers for lot area are 14% currently substandard and eligible to make application for variance, with an additional 2% eligible under the proposed modification. Because some properties are substandard in both width and area, totaling these percentages would over-count the number of total affected parcels.

Examination of these parcels through the City's GIS system is illuminating. Maps for seven neighborhoods were produced—Armatage, Audubon Park, Bancroft, Howe, Near North, Prospect Park/E River Road, and Victory. (A map of a portion of the Howe neighborhood is attached as an example. The shaded parcels are affected parcels. That is, they are between 20% and 30% deficient in either lot area or lot width.) These seven neighborhoods had a total of 177 affected parcels ranging from 7 in Armatage to 49 in Audubon Park. Of these parcels, the vast majority are developed. Only 11 parcels are vacant. This suggests that the most important effect of the proposed ordinance change with respect to single family infill development is not to allow the development of vacant parcels, but to ensure continuity of development for substandard parcels that are currently developed. If a home on one of these lots were to burn down, for instance, the zoning code modification would allow the replacement of the home even if it could not fully meet the required side yard setback.

Minneapolis City Planning Department Report
Text Amendment: Housing, Affordable Housing—Phase I Amendments

Second, a variance may be requested to allow extra units on parcels with multi-family zoning. For instance, an applicant may apply for a variance to allow the construction of a 26 unit building on a parcel that would support 20 units without the variance. If the zoning code modification is adopted, staff does not expect a flood of new variance applications for multi-family residential projects. Lot area and width variances of up to 20% are available under the current zoning code, but staff in the Development Services section of the Planning Department can only recall three development proposals in the last year that included a proposed lot area variance as part of the project review.

The third scenario is a variance request to allow a commercial use on a commercially zoned parcel that does not meet the minimum required lot area or width for that use. Most commercial uses are not subject to minimum lot areas and widths. Those that are include:

- Commercial uses with drive through facilities
- Automobile services with car wash or fuel pump
- Automobile sales
- Food and beverage uses with drive-through facilities
- Transportation uses
- K-12 schools
- Athletic field

Development Services staff could recall no commercial projects over the past year that requested a variance of lot area or lot width.

Purpose For The Amendment

What is the reason for the amendment?

Density Bonus. A density bonus for affordable housing provides an incentive to housing developers to include affordable housing in a development. The ability to construct additional units is of value in some Minneapolis markets because it generates additional returns to the developer.

Lot Area/Width Variances. The purpose of the lot area variance is to allow greater flexibility in zoning code lot area and lot width requirements. It improves the ability to reuse a small number of substandard residential parcels for single family construction. It increases the likelihood of multi-family development on a small number of parcels where an additional unit or units may make the difference in the ability of the property to be developed.

What problem is the Amendment designed to solve?

Density Bonus. The city's capacity to encourage the development of affordable housing through direct provision of funding and financing is increasingly limited. The provision of a density bonus is one of a menu of non-financial strategies being explored to facilitate the production of affordable housing.

Minneapolis City Planning Department Report
Text Amendment: Housing, Affordable Housing—Phase I Amendments

Lot Area/Width Variances. There have been a small number of recent residential development proposals that required larger than 20% lot area or lot width variance. The variance could not be considered because the existing zoning code allows lot area/width variances only up to 20%.

What public purpose will be served by the amendment?

Density Bonus. The amendment is intended to lead to the creation of additional affordable housing.

In order to expand housing choices for residents who face economic constraints, it is essential to increase the supply of affordable housing. This is particularly important during times when the convenience and amenities of the city lead to a strong city housing market, and associated high rents and sales prices. Affordable housing is important not only for the very poor. Working families at a range of income levels benefit from housing that does not consume too great a share of the household income, that leaves resources available to attend to the many other important human needs.

Affordable housing benefits not only its occupants. It benefits the entire city and region by supporting the diverse workforce required by a vital economy. Affordable housing development can bring reinvestment into neighborhoods that face economic challenges.

Lot Area/Width Variances. The proposed amendment allows consideration of development proposals that may be in the public interest and cannot currently be considered. It protects the public from adverse development through the required findings which require an analysis of the impact of the proposed development on the surrounding area.

What problems might the amendment create?

Density Bonus. Several density bonuses are already available to housing projects. In residential, office residence, and downtown districts, these include:

Bonus for affordable housing (proposed):	20%
Bonus for enclosed parking:	20%
Bonus for planned unit development:	20%

In commercial districts, the available bonuses include the following:

Bonus for affordable housing (proposed):	20%
Bonus for enclosed parking:	20%
Bonus for mixed commercial-residential buildings	20%
Bonus for planned unit development:	20%

In industrial districts with the IL Industrial Living Overlay District, the available bonuses include:

Minneapolis City Planning Department Report
Text Amendment: Housing, Affordable Housing—Phase I Amendments

Bonus for affordable housing (proposed):	20%
Bonus for planned unit development:	20%

To obtain such bonuses, a development must offer something that has been judged to be of high value to the public. Some might question whether the cumulative effect of multiple bonuses allows development density to stray too far from the base density allowed in a given zoning district. A counter-argument might be based on an example such as this: If a proposed development is to be a planned unit development with enclosed parking and is thus already eligible for two bonuses, are we therefore less interested in encouraging the provision of affordable housing? If not, then the 20% affordable housing bonus still has merit.

Lot Area/Width Variances. Negative impacts of this change are not expected. As documented above, the provision has the potential to make an important difference for certain single or multi-family residential development. However, these instances will occur on an infrequent basis. Moreover, the Planning Commission and City Council have clear authority to deny a variance where the impact of the proposed development can be shown to be negative.

Timeliness and Analysis

Is the amendment timely?

Density Bonus. The amendment is timely because it accompanies the development and implementation of a variety of strategies for fostering the development of additional affordable housing.

Lot Area/Width Variances. The amendment is timely because it accompanies the development and implementation of a variety of strategies for fostering the development of additional affordable housing.

Is the amendment consistent with practices in surrounding areas?

Density Bonus. The use of density bonuses to stimulate the development of affordable housing is fairly common. The state of California has a model density bonus ordinance. Over 250 California jurisdictions have adopted a form of it. In San Diego, for example, a 25% density bonus is available for developments in which at least 20% of units are affordable to households earning 60% of area median income, or at least 10% of units are affordable to households earning 50% of area median income.

Montgomery County, Maryland, has long required the provision of moderately priced housing in every housing development. It also confers density bonuses of up to 22% depending on the number of moderately priced dwelling units are in the development.

Bainbridge, Washington offers one bonus market rate unit above the normal maximum for each affordable unit provided—up to 15% above the maximum density in the underlying zoning district. Units must remain affordable for the duration of the project, and are recorded as a covenant that runs with the land.

Minneapolis City Planning Department Report
Text Amendment: Housing, Affordable Housing—Phase I Amendments

Some Minnesota municipalities have pursued similar strategies. The city of Woodbury confers an additional market rate unit for each affordable unit, capped at 28.5% over the base density. A minimum of 15% of units in these projects must be affordable. The City of Stillwater adopted a code change this April that confers a 10% density bonuses on projects in which 80% of units meet the federal definition of affordable.

Lot Area/Width Variances. The neighboring cities of Saint Paul, Saint Louis Park, Golden Valley, and Richfield do not have enumerated variances. They simply allow application for variances from the strict provisions of the zoning code if the findings can be demonstrated. In essence, they permit up to 100% variances of minimum dimensions where hardship and impact related findings can be made.

Are there consequences in denying this amendment?

Density Bonus. The denial of this amendment would eliminate a potential incentive for the development of affordable housing.

Lot Area/Width Variances. The denial of this amendment would mean that there would remain a small number of residential parcels that are impossible to develop. It would remove a tool for increasing the feasibility of some multi-family development projects.

Comprehensive Plan

How will this amendment implement the Comprehensive Plan?

Density Bonus. Currently The Minneapolis Plan provides little policy support for the development of additional affordable housing in the city. The City Council has, however, requested that Planning Department staff develop amendments that would support the development of additional housing in general, and affordable housing in particular. Planning Commission consideration of these amendments is occurring on September 23 concurrent with consideration of these proposed zoning code amendments.

Lot Area/Width Variances. The Minneapolis Plan supports the growth of the City's housing stock. The proposed modification would allow the creation of housing in certain instances where currently it would be infeasible.

Recommendation Of The City Planning Department:

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the text amendments.